

Romano, executive director of the adult day center in Branford, CT. Through his efforts over the past 15 years, the East Shore Regional Adult Day Center has become a model organization for the care of the elderly, as well as for physically and mentally challenged adults.

The adult day center has organized many activities to foster community growth. Many activities involve children from area schools as part of the center's intergenerational program which has been organized. An event such as this one provides an invaluable experience for not only the adults, but the children as well. In addition, the adult day center has started the expansion of its therapeutic recreation outdoors program. Various community groups—churches, service organizations, businesses, and others—have received this project very well, showing their enthusiasm with financial support.

Mr. Romano and the staff at the center has provided respite from 24 hour care for over 600 families in the Greater New Haven area. The programs that they have organized not only foster the growth of these individuals, but it also prevents the premature institutionalization of these individuals as well.

The adult day center has been an innovator in meeting the social and health care needs of this special population by providing services such as medical monitoring and recreational therapies, among others. Thomas Russell Romano, in his position as president and C.E.O. of this organization, has twice been distinguished with Certificate of Award by the Connecticut Department on Aging for his dedication and work with the facility.

In the future, I hope that the work of Mr. Romano shall continue to flourish and expand in scope to reach a more expansive area. On the occasion of the 15th anniversary of the East Shore Regional Adult Day Center, Mr. Romano and the entire staff should be commended on the tireless work and dedication which they have shown in furthering the development of not only the individuals who participate in the program, but the development of the community as well.●

DUCKING ON AFFIRMATIVE ACTION

● Mr. SIMON. Mr. President, the New York Times recently had an editorial titled *Ducking on Affirmative Action*.

The subject is the refusal of the Supreme Court to consider a decision by the Fifth Circuit Court of Appeals that would have devastating consequences for our society.

No one should underestimate the shortsightedness and the harm that can come from leaving the Hopwood decision of the fifth circuit stand.

Mr. President, I ask that this article from the New York Times be printed in the RECORD.

The article follows:

DUCKING ON AFFIRMATIVE ACTION

In a hurtful blow to affirmative action in higher education, the Supreme Court said on Monday that it would not hear an appeal by the state of Texas from a lower court ruling that barred public universities from using race as a factor in selecting students. With this sidestepping, the Court left officials in at least three Southern states who are working to open educational opportunities for minorities in an untenable state of uncertainty. It also sowed confusion nationwide—hardly an uplifting way for the Court to finish its term and head into recess. The Court should instead have seized the opportunity to reject the lower court's flawed pronouncement and reaffirmed its historic commitment to carefully designed affirmative action.

The high court seemed insensitive to the long history of racism at the University of Texas Law School, whose affirmative action program was challenged by rejected white applicants, giving rise to the case. As late as 1971, the law school admitted no black students. The Court also ignored the Clinton Justice Department, which filed a brief warning that the "practical effect" of the lower court's holding "will be to return the most prestigious institutions within state university systems to their former 'white' status."

The refusal to hear the case left standing a ruling by the United States Court of Appeals for the Fifth Circuit that caused justifiable consternation in the academic world three months ago. An appellate panel invalidated a special admissions program at the Texas law school aimed at increasing the number of black and Mexican-American students. In doing so, the panel took the gratuitous, additional step of declaring the Supreme Court's landmark 1978 affirmative action decision in the so-called Bakke case no longer good law. That case, involving a suit by a rejected white applicant who sought entry to a California state medical school, resulted in a ruling that barred the use of quotas in affirmative action plans but permitted universities to use race as a factor in choosing among applicants to serve the "compelling interest" of creating a diverse student body.

If Bakke is no longer good law, it is for the Supreme Court to declare. But instead of grabbing the case to reassert Bakke's sound principle, the justices found a way out in the odd posture of the case. In an unusual one-paragraph opinion that was also signed by Justice David Souter, Justice Ruth Blader Ginsburg said that the Court was denying review because the case did not actually present a live controversy. The kind of two-track admissions system that inspired the legal challenge is no longer used or defended by Texas, she explained. Like most other colleges and universities, the University of Texas Law School now uses a single applicant pool, in which race is one factor to be considered among others in choosing among the qualified.

Justice Ginsburg's message, a welcome one, was that the Court's refusal to hear the case should not be read as an endorsement of the Fifth Circuit's analysis. But, in fact, there was a remaining live controversy before the Court in the Fifth Circuit's direction to a state's leading law school to complete-direction to a state's leading law school to completely excluded race as a factor in future admissions. The shame is the Court declined to address it.

Instead, the Court left behind a mess. Its refusal to hear the case has put educational institutions in the three states that make up the Fifth Circuit—Texas, Louisiana and Mississippi—in a terrible spot. They could face punitive damages if they fail to change their

practices to conform to an ill-considered ruling that may ultimately be judged an incorrect statement of the law.

Nervous educators elsewhere in the nation can find some comfort at least in Justice Ginsburg's benign explanation. Eventually, this equal rights battle will find its way back to the Supreme Court. Meanwhile, it is premature to give up on affirmative action programs still needed to blot out historic racial bias and promote educational diversity.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nomination on today's Executive Calendar: Calendar No. 588, Edmund Sargus. I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, any statements relating to the nomination appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

Edmund A. Sargus, Jr., of Ohio, to be United States District Judge for the Southern District of Ohio.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

ORDERS FOR TUESDAY, JULY 23, 1996

Mr. COCHRAN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m. on Tuesday, July 23; further, that immediately following the prayer, the Journal of proceedings be deemed approved to date, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and the Senate immediately resume the reconciliation bill as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. COCHRAN. Mr. President, for the information of all Senators, tomorrow morning, beginning at 9:30, there be a lengthy series of rollcall votes on, or in relation to, amendments to the reconciliation bill. Members should be alerted that there may be as many as 24 consecutive rollcall votes.

Mr. President, I now ask unanimous consent that beginning after the first vote, all remaining votes in the voting sequence be limited to 10 minutes in length.